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Attorneys for Plaintiff

FILED  
U.S. DISTRICT COURT

2005 MAY -6 P 4: 39

DISTRICT OF UTAH

Y: DEPUTY CLERK

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IN THE UNITED STATES DISTRICT COURT

STATE OF UTAH, CENTRAL DIVISION

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JENNIFER STEIMKE, as trustee of the : **PLAINTIFF'S CROSS MOTION FOR**  
ODETTE GRAHAM TRUST, sole beneficiary : **PARTIAL SUMMARY JUDGMENT**  
of the MICHELON FAMILY TRUST, and sole : **AGAINST DEFENDANTS HARVEST**  
devisee and representative of the ESTATE OF : **MARKETING, L.L.C., FIRST HARVEST,**  
LYNDA STEIMKE MICHELON, : **L.L.C., AND FRANK L. DAVIS**

Plaintiff,

v.

JAE FORSCHEN, DAVID J. ORR,  
individually and dba WORLD  
CONTRACTUAL SERVICES, HARVEST  
MARKETING, L.L.C., FIRST HARVEST,  
L.L.C., FRANK L. DAVIS, and JOHN DOES 1:  
through 10,

Defendants.

Case No. 2:03CV-0487

Judge Dale A. Kimball

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Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiff Jennifer Steimker, acting on behalf of the Michelin Family Trust, hereby moves for summary judgment Defendants

Harvest Marketing, L.L.C. ("Harvest Marketing"), First Harvest, L.L.C. ("First Harvest") and Frank L. Davis ("Davis") on her Eighteenth Claim for Relief for breach of a promissory note.

Plaintiff seeks judgment against Harvest Marketing, First Harvest and Davis in the amount of \$175,000, being the principal amount of the note, late charges in the amount of \$1,000 per week from March 3, 2000 until paid in full or, in the alternative, interest at the legal rate from March 3, 2000 until paid in full, and Plaintiff's costs and attorney's fees incurred in collecting on the promissory note.

This motion is supported by a memorandum of points and authorities, all of which demonstrate that Plaintiff to the relief she seeks as a matter of law.

DATED this 6<sup>th</sup> day of May, 2005.

**KIRTON & McCONKIE**

By: David M. Wahlquist  
David M. Wahlquist  
Daniel J. McDonald  
Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 6<sup>th</sup> day of May, 2005, I caused to be served a true copy of the foregoing **PLAINTIFF'S CROSS MOTION FOR PARTIAL SUMMARY JUDGMENT AGAINST DEFENDANTS HARVEST MARKETING, L.L.C., FIRST HARVEST, L.L.C AND FRANK L. DAVIS**, by the method indicated below, to the following:

Stephen Quesenberry  
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Attorneys for Defendants Frank Davis, Harvest  
Marketing, LLC and First Harvest, LLC

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David M. Morgan